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Oceans and the law of the sea

Letter dated 9 June 2014 from the Chargé d'affaires a.i. of the Permanent Mission of China to the United Nations addressed to the Secretary-General

Upon instruction from my Government, I have the honour to transmit herewith the position paper of the People's Republic of China, "The operation of the HYSY 981 drilling rig: Viet Nam's provocation and China's position" (see annex), regarding the illegal disruption by the Socialist Republic of Viet Nam of normal drilling operations by a Chinese company in the waters off China's Xisha Islands.

I should be grateful if you would have the present letter and its annex circulated as a document of the sixty-eighth session of the General Assembly, under agenda item 76 (a).

(*Signed*) **Wang** Min
Ambassador Extraordinary and Plenipotentiary
Acting Permanent Representative of the
People's Republic of China to the United Nations

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Annex to the letter dated 9 June 2014 from the Chargé d'affaires a.i. of the Permanent Mission of China to the United Nations addressed to the Secretary-General

The operation of the HYSY 981 drilling rig: Viet Nam's provocation and China's position

I. Operation of the HYSY 981 drilling rig

On 2 May 2014, the HYSY 981 drilling rig of a Chinese company started drilling operations inside the contiguous zone of China's Xisha Islands (see enclosure 1 for the locations of operation) for the purpose of oil and gas exploration. After completion of the first phase of the operation, the second phase was begun on 27 May. The two locations of operation are 17 nautical miles from both Zhongjian Island of China's Xisha Islands and the baseline of the territorial waters of the Xisha Islands, yet approximately 133 to 156 nautical miles from the coast of the Vietnamese mainland.

The Chinese company has been conducting explorations in those waters, including seismic operations and well site surveys, for the past 10 years. The current drilling operation of the HYSY 981 drilling rig is a continuation of the routine process of explorations, and falls well within the sovereignty and jurisdiction of China.

II. Provocation by Viet Nam

Shortly after the Chinese operation started, Viet Nam sent a large number of vessels, including armed vessels, to the site, illegally and forcefully disrupting the Chinese operation and ramming the Chinese Government vessels on escort and security missions there. In the meantime, Viet Nam also sent frogmen and other underwater agents to the area, and dropped large numbers of obstacles, including fishing nets and floating objects, into the waters. As of 5 p.m. on 7 June, the number of Vietnamese vessels in the area had peaked at 63, attempting to break through China's cordon and ramming the Chinese Government ships a total of 1,416 times.

Those actions by the Vietnamese side constituted a serious infringement of the sovereignty, sovereign rights and jurisdiction of China, posed grave threats to the safety of Chinese personnel and the HYSY 981 drilling rig, and were a gross violation of the relevant international laws, including the Charter of the United Nations, the 1982 United Nations Convention on the Law of the Sea and the 1988 Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation and the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf. Such actions also undermined the freedom and safety of navigation in these waters, and damaged peace and stability in the region.

As well as illegally and forcefully disrupting the normal operation of the Chinese company at sea, Viet Nam also condoned anti-China demonstrations at home. In mid-May, thousands of lawless elements in Viet Nam carried out beatings, smashed and looted properties and engaged in arson against Chinese companies and

those of several other countries. They brutally killed four Chinese nationals and injured over 300 others, and caused heavy property losses.

III. Response of China

The waters between China's Xisha Islands and the coast of the Vietnamese mainland are yet to be delimited. The two sides have not yet conducted the delimitation of the exclusive economic zone and continental shelf in those waters. Both sides are entitled to claim the exclusive economic zone and continental shelf in accordance with the United Nations Convention on the Law of the Sea. However, those waters will never become the exclusive economic zone and continental shelf of Viet Nam, no matter which principle is applied in the delimitation process.

China exercised great restraint and took the necessary preventive measures in the face of Viet Nam's provocative actions at sea. Chinese Government ships were dispatched to the site for the purpose of ensuring the safety of the operation, which effectively safeguarded the orderliness of production and operations at sea and the safety of navigation. Since 2 May, China has also sent over 30 communications to Viet Nam at various levels, requesting the Vietnamese side to stop its illegal disruption of operations. Regrettably, however, that illegal disruption by the Vietnamese side is still continuing.

IV. Xisha Islands, part of Chinese territory

1. The Xisha Islands are an inherent part of China's territory, over which there is no dispute.

China was the first to discover, develop, exploit and exercise jurisdiction over the Xisha Islands. As far back as the Northern Song Dynasty (A.D. 960-1126), the Chinese Government had already established jurisdiction over the Xisha Islands and sent naval forces to patrol the waters there. In 1909, Commander Li Zhun of the Guangdong naval force, Qing Dynasty, led a military inspection mission to the Xisha Islands and reasserted Chinese sovereignty by hoisting the flag and firing a salvo on Yongxing Island. In 1911, the Government of the Republic of China announced its decision to bring the Xisha Islands and their adjacent waters under the jurisdiction of Ya County, Hainan Island.

Japan invaded and occupied the Xisha Islands during the Second World War. After Japan's surrender in 1945, the Chinese Government, in November 1946, in accordance with a series of international documents, sent senior officials on board military vessels to the Xisha Islands, in order for them to hold the ceremony to receive the islands. A stone tablet was erected to commemorate the handover and troops were stationed there afterwards. The Xisha Islands, which had once been illegally occupied by a foreign country, were thus returned to the jurisdiction of the Chinese Government.

In 1959, the Chinese Government established the Administration Office for the Xisha, Zhongsha and Nansha Islands. In January 1974, the Chinese military and people drove the invading army of the Saigon authority of South Viet Nam from Shanhu Island and Ganquan Island of the Xisha Islands and defended China's territory and sovereignty. The Chinese Government enacted the Law of the People's

Republic of China on the Territorial Sea and the Contiguous Zone in 1992 and published the base points and baselines of the territorial waters of the Xisha Islands in 1996, both of which reaffirm China's sovereignty over the Xisha Islands and the extent of the territorial waters of those islands. In 2012, the Chinese Government established the various departments of the city of Sansha on Yongxing Island of the Xisha Islands.

2. Prior to 1974, no Vietnamese Government had ever challenged the sovereignty of China over the Xisha Islands. Viet Nam had officially recognized the Xisha Islands as part of China's territory since ancient times. This position was reflected in its Government statements and diplomatic notes, as well as in its newspapers, maps and textbooks.

During a meeting with Chargé d'affaires ad interim Li Zhimin of the Chinese Embassy in Viet Nam on 15 June 1956, the Vice Foreign Minister of the Democratic Republic of Viet Nam, Ung Van Khiem, solemnly stated that, "according to Vietnamese data, the Xisha Islands and Nansha Islands are historically part of Chinese territory". Le Loc, Acting Director of the Asian Department of the Vietnamese Foreign Ministry, who was present, specifically cited Vietnamese data and pointed out that, "judging from history, these islands were already part of China at the time of the Song Dynasty".

On 4 September 1958, the Chinese Government issued a declaration (see enclosure 2), stating that "the breadth of the territorial sea of the People's Republic of China shall be twelve nautical miles" and making it clear that "this provision applies to all territories of the People's Republic of China, including ... the Xisha Islands". On 6 September, *Nhân Dân*, the official newspaper of the Central Committee of the Vietnamese Workers' Party, published on its front page the full text of the Chinese Government's declaration regarding China's territorial sea. On 14 September 1958, Premier Pham Van Dong of the Government of Viet Nam sent a diplomatic note to Premier Zhou Enlai of the State Council of China (see enclosure 3) solemnly stating that "the Government of the Democratic Republic of Viet Nam recognizes and supports the declaration of the Government of the People's Republic of China on its decision concerning China's territorial sea made on September 4, 1958" and "the Government of the Democratic Republic of Viet Nam respects this decision".

On 9 May 1965, the Government of the Democratic Republic of Viet Nam issued a statement with reference to the designation by the Government of the United States of America of the "combat zone" of the United States armed forces in Viet Nam. It says, "United States President Lyndon Johnson designated the whole of Viet Nam, and the adjacent waters which extend roughly 100 miles from the coast of Viet Nam and part of the territorial waters of the People's Republic of China in its Xisha Islands as the 'combat zone' of the United States armed forces ... in direct threat to the security of the Democratic Republic of Viet Nam and its neighbours ...".

The *World Atlas* printed in May 1972 by the Bureau of Survey and Cartography under the Office of the Premier of Viet Nam designated the Xisha Islands by their Chinese names. The geography textbook for ninth-grade students published by Viet Nam's Educational Press in 1974 carried in it a lesson entitled "The People's Republic of China". It reads, "The chain of islands from the Nansha and Xisha Islands to Hainan Island, Taiwan Island, the Penghu Islands and the

Zhoushan Islands ... are shaped like a bow and constitute a great wall defending the China mainland."

But now the Vietnamese Government is going back on its word by making territorial claims over China's Xisha Islands. That is a gross violation of the principles of international law, including the principle of estoppel, and the basic norms governing international relations.

V. Appropriately addressing the situation

China is a strong force for the maintenance of peace and stability in the South China Sea and the promotion of cooperation between and development of countries in the region. China firmly upholds the purpose and principles of the Charter of the United Nations, the basic norms of international relations and the fundamental principles of international law. The last thing China wants is any turbulence in its neighbourhood.

China wants good relations with Viet Nam, but there are principles that China cannot abandon. The channel of communication between China and Viet Nam is open. China urges Viet Nam to bear in mind the overall interests of bilateral relations and peace and stability in the South China Sea, respect China's sovereignty, sovereign rights and jurisdiction, immediately stop all forms of disruption of the Chinese operation and withdraw all vessels and personnel from the site, so as to ease tensions and restore tranquillity at sea as early as possible. China will continue its efforts to communicate with Viet Nam with a view to addressing the current situation in an appropriate manner.

Enclosure 1

Locations of the Chinese company's operation

注：两个作业位置距离越南大陆海岸约133至156海里。

Note: The two locations of operation are approximately 133 to 156 nautical miles away from the coast of the Vietnamese mainland.

Note: Les deux lieux de l'opération sont approximativement à une distance de 133 à 156 milles marins des côtes continentales du Viet Nam.

Enclosure 2

Declaration of the Government of the People's Republic of China on China's Territorial Sea

Beijing, September 4, 1958

The Government of the People's Republic of China declares:

1. The breadth of the territorial sea of the People's Republic of China shall be twelve nautical miles. This provision applies to all territories of the People's Republic of China including the Chinese mainland and its coastal islands, as well as Taiwan and its surrounding islands, the Penghu Islands, the Dongsha Islands, the Xisha Islands, the Zhongsha Islands, the Nansha Islands and all other islands belonging to China which are separated from the mainland and its coastal islands by the high seas.

2. China's territorial sea along the mainland and its coastal islands takes as its baseline the line composed of the straight lines connecting base-points on the mainland coast and on the outermost coastal islands; the water area extending twelve nautical miles outward from this baseline is China's territorial sea. The water areas inside the baseline, including Bohai Bay and the Qiongzhou Straits, are Chinese inland waters. The islands inside the base line, including Dongyin Island, Gaodeng Island, the Mazu Islands, the Baiquan Islands, Wuqiu Island, the Greater And Lesser Jinmen Islands, Dadan Island, Erdan Island and Dongding Island, are islands of the Chinese inland waters.

3. No foreign aircraft and no foreign vessels for military use may enter China's territorial sea and the air space above it without the permission of the Government of the People's Republic of China.

While navigation Chinese territorial sea, every foreign vessel must observe the relevant laws and regulations laid down by the Government of the People's Republic of China.

4. The principles provided in paragraphs 2) and 3) likewise apply to Taiwan and its surrounding islands, the Penghu Islands, the Dongsha Islands, the Xisha Islands, the Zhongsha Islands, the Nansha islands, and all other islands belonging to China.

The Taiwan and Penghu areas are still occupied by the United States armed force. This is an unlawful encroachment on the territorial integrity and sovereignty of the People's Republic of China. Taiwan, Penghu and such other areas are yet to be recovered, and the Government of the People's Republic of china has the right to recover these areas by all suitable means at a suitable time. This is China's internal affair, in which no foreign interference is tolerated.

Enclosure 3

Note dated 14 September 1958 from the Premier of the Government of the Democratic Republic of Viet Nam addressed to Premier Zhou Enlai of the State Council of the People's Republic of China

In its Declaration on September 4, 1958, the Government of the People's Republic of China declared the breadth of its territorial sea to be twelve nautical miles. The Declaration stated solemnly: "This provision applies to all territories of the People's Republic of China, including ... the Dongsha Islands, the Xisha Islands, the Zhongsha Islands, the Nansha Islands and all other islands belonging to China." On September 14, 1958, Premier Pham Van Dong of the Government of the Democratic Republic of Viet Nam stated in his Note to Premier Zhou Enlai that the Vietnamese Government "recognizes and supports" the declaration of the Chinese Government on China's territorial sea and "respects this decision". The text of this Note reads:

Comrade Zhou Enlai,

We have the honour to solemnly inform you, Comrade Premier, that the Government of the Democratic Republic of Viet Nam recognizes and supports the declaration of the Government of the People's Republic of China on its decision concerning China's territorial sea made on September 4, 1958.

The Government of the Democratic Republic of Viet Nam respects this decision and will instruct the responsible state organs that in all their intercourse with the People's Republic of China on the sea, they should strictly respect the decision that the breadth of China's territorial sea is twelve nautical miles.

We extend to you, Comrade Premier, the assurances of our highest consideration.

Pham Van Dong
Premier of the Government of the
Democratic Republic of Viet Nam
Hanoi, September 14, 1958

Comrade Zhou Enlai
Premier of the State Council
People's Republic of China
BEIJING